

**Lakeview Health Center and New England Health Care Employees Union, District 1199, a/w Service Employees International Union, AFL-CIO, Petitioner.** Cases 1-RC-19819 and 1-RC-19820

July 30, 1992

**ORDER DENYING REVIEW**

BY CHAIRMAN STEPHENS AND MEMBERS OVIATT  
AND RAUDABAUGH

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel, which has considered the Employer's request for review of the Regional Director's Decision and Direction of Elections (relevant portions of which are attached). The request for review is denied as it raises no substantial issues warranting review.<sup>1</sup>

<sup>1</sup> The only issue raised in the request for review is whether the Regional Director erred in finding that the Employer's charge nurses are not supervisors within the meaning of Sec. 2(11) of the Act. No party sought review of her unit or other findings.

**APPENDIX**

**DECISION AND DIRECTION OF ELECTIONS**

Upon petitions duly filed under Section 9(c) of the National Labor Relations Act, as amended, a consolidated hearing was held before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.
3. The labor organization involved claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The Employer, a Rhode Island partnership, has been engaged in the operation of a 195-bed nursing home at its Burrowville, Rhode Island facility since 1977.

The Petitioner currently represents a unit of all full-time and regularly scheduled part-time service and maintenance employees at the Employer's facility. By the petition in Case 1-RC-19819, the Petitioner seeks a unit of 12 registered nurses (RNs). The petition in Case 1-RC-19820 seeks a unit of 25 technical employees that would include licensed practical nurses (LPNs) and medication technicians (med techs).<sup>1</sup>

<sup>1</sup> There is no evidence in the record as to how many of these 25 employees are med techs and how many are LPNs.

Alternatively, the Petitioner seeks a combined unit of RNs, LPNs, and med techs. The Employer asserts that the only appropriate unit is the combined unit, since the working conditions and duties of RNs and LPNs are virtually the same. The parties stipulated that RNs are professional employees and LPNs and med techs are technical employees.

In addition, the Employer contends that all RNs and LPNs who are classified as charge nurses are supervisors within the meaning of the Act and should be excluded from the units. The Petitioner contends charge nurses are non-supervisory employees who should be included in the unit. In its post-hearing brief, the Petitioner states there are about 34 individuals classified as charge nurses (17 RNs and 17 LPNs) in dispute.<sup>2</sup>

The nursing home is under the overall direction of Joseph Rego, who has been the administrator<sup>3</sup> of the facility since August, 1991. He is at the home from 8:00 a.m. to 4:00 p.m., Monday through Friday, and, at times, on Saturday. The nursing department is headed by RN Arabella Demers, director of nurses. She works from 8:00 a.m. to 5:00 p.m., Monday through Friday. She has an assistant director of nurses, RN Kim Alarie. She works 8:00 a.m. to 4:00 p.m., Monday through Friday. There is a day supervisor, Margaret Rattey, who works Monday, Tuesday, Thursday, and Friday, from 6:30 a.m. to 5:00 p.m. The second shift supervisor, Barbara Costigan, works Monday through Friday, 3:00 p.m. to 11:00 p.m. There is no shift supervisor assigned to the third shift. Staffing Coordinator Sandy Marden sets all staffing for the facility. She works five days a week, six hours per day. The in-service coordinator, Linda O'Brien, handles all training and writes policies relative to education and nursing practices. She works Monday, Tuesday, Wednesday, and Thursday, 8:00 a.m. to 4:00 p.m. The administrator, director of nurses, and assistant director of nurses are on call during third shift on weekdays and throughout the weekend.

**CHARGE NURSES:**

The Employer provides 24-hour patient care on three shifts: 7:00 a.m. to 3:00 p.m.; 3:00 p.m. to 11:00 p.m.; and 11:00 p.m. to 7:00 a.m. The 195 beds are divided into five stations. Station one, with 41 beds, is staffed on first shift by two LPN charge nurses and five certified aides; on second shift by one LPN charge nurse and four certified aides; and on third shift, when most residents are asleep, by one LPN charge nurse and two certified aides. Station two, with 40 beds, is staffed on first shift by one LPN charge nurse, one med tech, and five certified aides; on second shift by one LPN charge nurse and four certified aides; and on third shift by one LPN charge nurse and two certified aides. Station

<sup>2</sup> There is no evidence in the record, apart from the petitions, concerning the number of employees in issue. I note that the Petitioner lists 17 RNs in issue, while its petition states there are only 12 RNs in the unit. Moreover, according to the staffing discussed below, it appears all RNs and LPNs are charge nurses.

<sup>3</sup> In accordance with the stipulation of the parties and the record as a whole, the following individuals are found to be supervisory employees within the meaning of the Act and are excluded from the unit: Administrator *Joseph Rego*; Director of Nurses *Arabella Demers*; Assistant Director of Nurses *Kim Alarie*; Day Supervisor *Margaret Rattey*; Second Shift Supervisor *Barbara Costigan*; In-service Coordinator *Linda O'Brien*; and Staffing Coordinator *Sandy Marden*.

three, with 44 beds, is staffed on first shift by one LPN charge nurse, one med tech, and five certified aides; on second shift by one LPN charge nurse and four certified aides; and on third shift by one LPN charge nurse and two certified aides. Station four and five are composed of "skilled beds," meaning that the residents on those stations require a greater degree of medical care, as well as 24-hour a day medical care. Station four, with 44 beds, is staffed on first shift by two charge nurses who can be either two RNs or one RN and one LPN, plus four certified aides; on second shift by one RN charge nurse, one med tech, and four certified aides; and on third shift by one RN charge nurse and three certified aides. Station five, with 27 beds, is staffed on both first and second shift by two charge nurses, who are either two RNs or one RN and one LPN, and by one RN charge nurse on third shift. In addition, there are four certified aides on both first and second shift, and two certified aides on third shift.

The staffing coordinator sets the staffing level for each shift and station. The charge nurse on each station then assigns aides to residents. These assignments are based on the amount of care needed by the residents and the desire to divide the work equally. If there are two charge nurses on a station, one starts to administer the medications while the other oversees the aide assignments. On stations one, two, and three, the charge nurse spends about five hours administering medications and one-half hour doing medical treatments. If a shift is understaffed, the charge nurse can redistribute the work among those on her station. Transfers between stations, however, are handled only by the staffing coordinator, or one of the other stipulated supervisors. If an employee calls in sick, the responsibility for finding a substitute rests with the staffing coordinator or day supervisor on first shift, and the second shift supervisor during second shift. The Employer maintains a list of available replacements and a list of four personnel pools to call. In addition, aides can be asked to stay past their shift, although they cannot be forced to do so.

During the third shift on weekdays, and during all three shifts on weekends, the regular managers and supervisors are not normally present at the facility, although the director and assistant director of nurses and the administrator are on call. During these shifts, the RN charge nurse on either station four or five is designated as the "supervisor with the book." The book contains the staffing schedule for that week and the next two weeks, as well as lists of available aides if scheduled aides call in sick. The supervisor with the book is usually a senior RN. Anyone so designated is paid \$2.00<sup>4</sup> more per hour than a regular charge nurse. A minimal amount of instruction is given to the supervisor with the book. Such instruction consists of reviewing the Employer's criteria for staffing problems that might occur; which stations need more staff than others; who might be available as a fill-in; and who to call if a serious problem develops. A supervisor with the book performs the regular duties of a charge nurse. The only additional duties are to be available to give guidance to other charge nurses; to call in substitutes for aides or nurses who call in sick; and to transfer aides between stations if such a need exists. Since there are no RNs who work only weekends, an RN on first or second shift

could be a regular charge nurse on weekdays and a supervisor with the book up to two weekends per month. Except when acting as the supervisor with the book, charge nurses, whether they are RNS or LPNs, have the same responsibilities, perform the same general duties, and exercise the same authority over aides. RNS do have more training and are qualified to perform medical procedures that LPs are not qualified to perform. Usually, RNs are assigned only to station four or five, since residents on those stations require the most medical treatment.

All the interviewing and hiring of aides is handled by the director of nurses, staffing coordinator, and in-service coordinator. A charge nurse would be consulted on a hiring decision only if the charge nurse happened to know the applicant. Until April 1992, the Employer was authorized by the State of Rhode Island to certify aides. This certification process required 80 hours of class training by the in-service coordinator and 20 hours of on-the-job training by certified aides under the direction of a charge nurse. Due to deficiencies cited in a state survey in August 1991, the Employer's certification authority was not renewed. It is not stated on the record what effect, if any, this has had or will have on the Employer's operations or procedures.

Newly hired aides are subject to a 60-day probationary period if full-time, 90-days if part-time. They are evaluated by the charge nurse at the end of their first month; again after two months if full-time, three months if part-time; again after six months; and then once a year thereafter. The charge nurse uses a standard evaluation form listing 15 items as to which the evaluator indicates by means of a check mark whether the aide is above average, average, or below average. There is also a line for comments and a section at the bottom for remarks. The form has a space for the evaluator to check "yes" or "no" to the question whether they recommend continued employment. While the director of nurses prefers that charge nurses indicate such a recommendation, charge nurses are not required to do so, and often do not. If there are two charge nurses on a station, either the one who works with the aide more frequently completes the evaluation, or they both complete it. The charge nurse then either discusses the evaluation with the aide, or the charge nurse can request that the director of nurses review the evaluation with the employee. Since there are no merit wage increases, the evaluation does not affect an employee's pay. All wage increases are determined by the collective bargaining agreement that the aides work under. Demers reviews all evaluations before they are placed in the employee's personnel file.

In support of its contention that charge nurses are statutory supervisors, the Employer cites eight former employees who received evaluations in which the charge nurses answered "no" to the question, "Recommend continued employment." The "no" on the 1986 evaluation of B. Plouffe was conditioned upon her failing to improve in the future. The evaluation was reviewed by the employee, the then-director of nurses, and the Union steward. The aide was not terminated, and went on to receive positive evaluations in the next two years. For the 1990 first-month evaluation of T. Pendleton, the 1987 third-month evaluation of M. Reiner, and the 1985 sixth-month evaluation of C. Raimond, the Employer's witnesses were unable to state whether those employees quit or were terminated, when the left, or, if terminated, the circumstances leading to the termination. In the case of Pendle-

<sup>4</sup>There is no evidence in the record concerning the rates paid to RNs, LPNs, or med techs.

ton, the first-month evaluation was not completed until two months after it was due. It is not unusual for the director of nurses to have a charge nurse complete an evaluation after an employee leaves, to provide documentation if the employee should seek to return. The 1983 first-month evaluation of D. Howard had the "no" box checked, conditioned upon her failing to improve in the future. While she is no longer employed, the Employer was unable to provide evidence to establish the circumstances under which she left its employ. The 1986 six-month evaluation of M. Lussier also had the "no" box checked, conditioned upon her failing to improve in the future. She was subsequently terminated due to unknown circumstances. The 1991 second-month evaluation of J. Grenon, who quit her employment with the Employer, had the "no" box checked. Demers was not sure, however, if Grenon quit before or after the evaluation. Her first-month evaluation had not been favorable, but neither box had been checked. The 1989 six-month evaluation of K. Jansen, who quit her employment with the Employer, was filled out prior to the completion of the six month period, probably after she had quit. The evaluation has comments on it from the director of nurses.

Terminations are normally handled by the administrator and the director of nurses. Administrator Rego testified that charge nurses have the authority to terminate an aide on the spot for a grave offense. He could not give any instances, however, when this has occurred. The job description for charge nurses makes no mention of any such authority. In fact, the job description states that in situations posing a serious threat to the safety and general welfare of the residents and/or other staff members, the charge nurse "may request that an employee leave their shift and return only with the approval of the DNS or ADNS. . . ." The Employer could cite only one instance when this occurred. A charge nurse, acting as the supervisor with the book on the weekend, sent home an aide who had been involved in a fight with another aide. The director of nurses testified, however, that if such an incident happened during first or second shift on a weekday, she would expect the charge nurse to consult with a manager or shift supervisor before sending anyone home.

The Employer contends that charge nurses have the authority to recommend an employee's termination. The director of nurses must, however, approve all terminations. Before doing so, she requires that the proposed action be properly supported by the documentation of problems with the employee. In addition, the director of nurses independently evaluates the situation and has, at times, required more documentation before a termination is effectuated. The director of nurses also reviews the documentation to ensure that the Union contract and the Employer's policies have been followed. Moreover, the director and the stipulated nursing supervisors regularly make rounds during which they have an opportunity to observe employees' work first hand. There have been three terminations by Demers since she became director of nurses about two years ago. Christopher Young was terminated in August 1991 for being a "no call-no show." While he had received a negative evaluation and two warnings from charge nurses shortly before his termination, he had also received a second warning from Day Supervisor Rattey and a recent performance review from the in-service coordinator, in which she refused to recommend him for certification "due to care results remaining below acceptable

levels." Aides must be certified to remain employed. J. Metayer was terminated in December 1991 after her first-month evaluation, in which the charge nurse had checked the "no" box on the recommendation for continued employment. Over the course of this aide's brief employment, however, Demers had followed the aide's progress, or lack thereof, and had discussed her problem areas with a number of nurses. Demers had told the charge nurse to document Metayer's deficiencies in order to support the termination. Demers personally reviewed the evaluation with the aide and terminated her. Sandra Limberg was terminated in December 1991, but only after the extensive involvement of Demers over the course of a year. Demers had previously suspended Limberg and had told her before her termination that she would be terminated if she received another warning or a negative evaluation. Before she was fired, however, Limberg received two warnings and two negative evaluations, neither of which had the recommendation for or against continued employment boxes checked. Demers made the final decision to terminate Limberg and then did so.

The charge nurses have the authority to orally admonish employees and to issue written warnings. The Employer's Employee Warning Record form calls for a description of the problem and contains a line for a recommendation. For the most part, however, the forms in evidence contain no recommendations. The form also has a space for the employee's comments and a box for the director of nurses to complete, approving the warning and determining what action, if any, will be taken. Upon completion, the form is placed in the employee's file. Pursuant to the collective bargaining agreement, if the warning is more than two years old, it cannot be considered as support for any later action. If the employee disputes the warning, the employee can request a meeting with the director of nurses. The director will then conduct her own investigation into the circumstances behind the warning. Both the administrator and the director have told charge nurses that they will "rip up" a warning if they deem the warning to be unwarranted. There is evidence of one warning that the director of nurses did, in fact, rip up based on her investigation and determination that the charge nurse and the aide were equally at fault. The administrator has also ripped up a warning. In addition, the director of nurses can simply ignore a warning or recommendation.

While Demers testified that an employee who receives three warnings within two years is subject to termination, there is no such standard stated in the collective bargaining agreement or elsewhere, and it appears that some employees have more than three warnings and are still employed. Moreover, Demers admits that warnings are given different weight according to the nature of the offense involved. Finally, a reading of the warnings in evidence indicates that they were used as vehicles to report incidents and to instruct employees, as well as to admonish them.

All scheduling of vacations, and the granting of time off in general, is handled by the director of nurses and the staff coordinator. There is a 1989 memo outstanding, from the then-director of nurses, requiring anyone wishing to come in late or leave early to obtain permission from the director or assistant director one to two days prior to doing so. Emergencies are the only exception. It appears the only time a charge nurse would have the authority to let someone leave early would be on third shift or on a weekend, and even then

it would only be the supervisor with the book who could do so.

The contractual grievance procedure has three steps: step one involves meeting with the department head; step two involves meeting with the administrator; and step three is arbitration. While the Employer contends the charge nurse involved in a particular grievance would sit in on grievance meetings, the Employer was unable to give any examples of when this has occurred. Patrick Quinn, the Petitioner's business agent since 1987, testified that in the 50 or so grievance meetings involving the Employer that he has attended, there was never a charge nurse present.

Charge nurses are paid on an hourly basis, punch a time clock, are paid overtime, and receive the same benefits as other employees sought to be included. They are evaluated on a yearly basis by the director of nurses, who uses the same evaluation form as that used for aides.

It is well settled that an employee cannot be transformed into a supervisor by the vesting of a title and the theoretical power to perform one or more of the enumerated functions in Section 2(11) of the Act. *Magnolia Manor Nursing Home, Inc.*, 260 NLRB 377, 385, n. 29 (1982). To qualify as a supervisor, it is not necessary that an individual possess all of the powers specified in the Act. Rather, possession of any one of them is sufficient to confer supervisory status. *Somerset Welding & Steel, Inc.*, 291 NLRB 913 (1988); *Chicago Metallic Corp.*, 273 NLRB 1677, 1689 (1985). Consistent with the statutory language and the legislative intent, however, it is well recognized that the disjunctive listing of supervisory indicia in Section 2(11) does not alter the requirement that a supervisor must exercise independent judgment in performing the enumerated functions. Thus, the exercise of supervisory authority in a merely routine, clerical, perfunctory, or sporadic manner does not elevate an employee into the supervisory ranks, the test of which must be the significance of the judgment and directions. *Opelika Foundry*, 281 NLRB 897 (1986); *Hydro Conduit Corp.*, 254 NLRB 433 (1981). Additionally, the existence of independent judgment alone will not suffice, for the decisive question is whether the employee has been found to possess the authority to use independent judgment with respect to the exercise of one or more of the specific authorities listed in the Act. *Advanced Mining Group*, 260 NLRB 486, 506-507 (1982). Moreover, in connection with the authority to recommend actions, Section 2(11) of the Act requires that the recommendations must be effective. The burden of proving that one is a supervisor rests on the party alleging that such status exists. *Tucson Gas & Electric Co.*, 241 NLRB 181 (1979). Whenever the evidence is in conflict or otherwise inconclusive on particular indicia of supervisory authority, the Board will find that supervisory status has not been established, at least on the basis of those indicia. *Phelps Community Medical Center*, 295 NLRB 486, 990 (1989).

A determination as to the supervisory status of the Employer's charge nurses requires an analysis of where they fall along the spectrum of powers and authorities that distinguish leadpersons and non-supervisory charge nurses from statutory supervisors. Based on all the foregoing, and the record as a whole, I find that the Employer has failed to meet its burden of demonstrating that the disputed employees are supervisors within the meaning of the Act.

The charge nurses have no authority to hire, nor do they interview job applicants. There is no evidence that charge nurses possess the actual power to discharge. While the administrator asserted that, in the absence of higher authority, they would have this authority in the case of a grievous offense, this power does not appear in their job description and has never been exercised. Moreover, it appears the most authority given to charge nurses in such a serious situation is to send an employee home, subject to review by the director, or assistant director, of nurses. Such action, taken in connection with patient care and reviewable by higher authority, has been found by the Board to be insufficient to establish supervisory authority. *Phelps Community Medical Center*, above at 492.

The record also does not establish that the charge nurses' evaluations of employees' performance affect employees' job status. In evaluating employees, the charge nurses do not make specific recommendations for promotions, raises, or discipline. They often do not even check the recommendation box for continued employment, and are not required to do so. There is no evidence that an evaluation, on its own, has resulted in any personnel action. The Board has held that the authority simply to evaluate employees, without more, is insufficient to establish supervisory status. *Passavant Health Center*, 284 NLRB 887, 891 (1987). In similar cases involving the evaluation of nurses' aides by charge nurses, the Board has found that the preparation of evaluations that contain no recommendations and cannot be shown to directly affect employees' job status is not indicative of supervisory status. *Waverly-Cedar Falls*, 297 NLRB 390, 392 (1989); *Ohio Masonic Home*, 295 NLRB 390, 393 (1989). Moreover, the director of nurses reviews all the evaluations prepared by the charge nurses before they are placed in employee files, and has, on occasion, instructed a charge nurse to further document problems with aides in their evaluations.

*Pine Manor Nursing Center*, 270 NLRB 1008 (1984), cited by the Employer in support of its contention that the charge nurses' evaluation function renders them statutory supervisors, does not require a different result. Thus, unlike the instant case, the evaluations performed by the charge nurses in *Pine Manor* were used in connection with a bonus system involving a specific relationship between the number of "stars" awarded by the charge nurses and a ten-cent increase in hourly wages. Similarly, while the charge nurses in *Pine Manor* made recommendations in the evaluations, as the charge nurses in this case sometimes do, concerning employee retention, unlike this case, the retention decisions in *Pine Manor* were made solely on the basis of the charge nurses' evaluations, with no independent investigation by higher authority.

The charge nurses here do issue warnings to aides. It is well established, however, that neither issuing oral warnings, nor issuing written warnings "that do not *alone* affect job status or tenure," constitute supervisory authority. (*Passavant Health Center*, above at 889 and cases cited there, emphasis added.) Where such warnings merely bring substandard performance to the attention of a superior, the Board has viewed this as simply a reporting function. Here, the charge nurses fill out warning slips by checking a box for the appropriate infraction. While there is one line on the form for a recommendation, the warnings contained in the record reveal that a recommendation is almost never made

by a charge nurse. Rather, it is the director of nurses or some other stipulated supervisor who fills in the action to be taken. The selection of a check box by the charge nurse is neither a recommendation for, nor an independent decision as to, a definitive disciplinary action. In all cases, the director of nurses retains the power and discretion to determine whether or not discipline will be meted out, as well as the nature of the discipline that an employee is to receive. Without the input of the director of nurses, the warnings may be placed in the employee's personnel file only if the employee does not dispute the warning. Apparently, though, such a warning would not affect an employee's job status. Thus, the record "does not establish that these warnings *automatically* lead to any further discipline or adverse action against an employee." (*The Ohio Masonic Home*, above at 393, emphasis added).

The Employer also contends that the charge nurses possess supervisory authority based on the fact that they direct the work of the aides. I note initially that the record demonstrates that the charge nurses spend a significant amount of time involved in direct patient care duties. The staffing coordinator assigns employees to their shifts. The charge nurses then assign the aides to take care of particular patients, based on the patients' needs. This is the type of assignment that the Board has found to be routine direction in connection with the treatment of patients to ensure that quality care is provided to all residents in their care unit. *Waverly-Cedar Falls*, above at 393. The routine nature of these assignments is underscored by the fact that the charge nurses here try to divide the patients equally among the staff, and assignments generally remain the same each week. *The Ohio Masonic Home*, above at 391.

The RN charge nurses who function as supervisors with the book do effect temporary reassignments of employees to patients, and call in employees in order to assure proper coverage of patient care needs. When they call in employees, however, they have established procedures to follow, involving making calls from lists of employees, and employment services. The Board has noted that these actions, made to assure adequate staffing is maintained, are not indicative of supervisory status in the health care field. *Beverly Manor Convalescent Centers*, 27 NLRB 943, 946 (1985). The fact that calling in an employee may involve overtime for the employee is incidental, especially where the record shows, as here, that the charge nurses have no authority to order an employee in to work, or to discipline an employee who refuses to come in. *Id.*

The record does not demonstrate that the charge nurses possess or exercise the authority to adjust employee grievances. The only evidence in this regard pertains to Employer testimony that charge nurses would sit in on grievance meetings, the fact of which is denied by the Petitioner. There is no evidence that the charge nurses act on behalf of the Employer to resolve disputes between employees and the Employer in matters affecting the employees' employment status.

Charge nurses have the authority to permit employees to leave work early, but only in emergencies. When this involves an employee illness or similar personal emergency, it has an obvious connection with patient care and requires only a minimal exercise of discretion. *Eventide South*, 239 NLRB 287, 288 (1978). There is no evidence that the charge nurses' discretion to permit employees to leave work early in these limited circumstances is exercised more than occasionally, especially since there is a memo outstanding requiring employees to secure permission for schedule changes in advance from the director of nurses or her assistant. Accordingly, this sporadic exercise of authority does not denote true supervisory authority, especially since the charge nurses do not otherwise schedule vacation or leave time.

Other secondary factors, considered in conjunction with the above, do not require a different conclusion. If the charge nurses are found to be employees, the supervisors on the weekday day shift for the nursing department would include the administrator, director and assistant director of nurses, staff coordinator, in-service coordinator, and shift supervisors, a ratio of about one supervisor to five employees.<sup>5</sup> At nights and on weekends, the director of nurses, assistant director of nurses, and the administrator are on call to handle matters requiring independent judgment. *Phelps Community Medical Center*, 295 NLRB at 492; *Waverly-Cedar Falls*, supra at 393.

Based on all the foregoing, and the record as a whole, it appears that the charge nurses function in the nature of leadpersons acting in furtherance of patient care, rather than exercising true supervisory judgment on behalf of the Employer. Accordingly, I find that the charge nurses are not supervisors within the meaning of the Act, and shall include them in the unit.

<sup>5</sup> If, on the other hand, the charge nurses are found to be statutory supervisors, the ratio of supervisors to employees at some stations on this shift would be an unreasonable two to one.